

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1.
 - a. Whether there should be reimbursement of \$20.00 for date of service 05/03/01.
 - b. The request was received on 01/22/02.

II. EXHIBITS

- a. TWCC 60 and Letter Requesting Dispute Resolution
 - b. HCFA(s)-1500
 - c. TWCC 62 forms/Medical Audit summary dated 09/26/01
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. Response to a Request for Dispute Resolution dated 04/30/02
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 06/28/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 06/28/02. The response from the insurance carrier was received in the Division on 07/08/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 06/28/02:

"Medical Fee Guideline, pg. 253, Section IV, states that nonlisted items and documentation of procedures does not contain a specific MAR for the DME items. [sic] The DME items should be billed at the usual and customary rate of the DME provider, and the...carrier shall reimburse the DME provider at...the fair and reasonable rate for the time [sic] described....The Documentation submitted substantiates the services given."
2. Respondent: Letter dated 07/08/02:

"This carrier agrees the codes in dispute have no specific MAR....This carrier simply needs to identify the supplies in dispute and will then reimburse appropriately. It appears

the requester's intent is for the office visit to suffice as documentation of procedure. That a surgical tray was even medically necessary or used is not documented....Without the necessary information, fair and reasonable reimbursement may not be determined.

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 05/03/01.
2. The provider billed a total of \$20.00 on the date of service in dispute.
3. The carrier did not reimburse the carrier for the service billed. The amount in dispute per the TWCC 60 is \$20.00.
4. The EOB denial is "F – DOP – REIMBURSEMENT IS NOT ALLOWED WITHOUT THE REQUIRED DOCUMENTATION OF PROCEDURE AS DEFINED IN THE 04/01/96 TWCC MEDICAL FEE GUIDELINE, PAGE 1." A medical audit dated 09/26/01 states, "The codes submitted have not been documented adequately to calculate fair and reasonable reimbursement."
5. The carrier's response is timely. No other EOB(s) or re-audits were noted. The Medical Review Division's decision is rendered based on denial codes submitted to the provider prior to this dispute being filed.

V. Rationale

The MFG, GI (III) states, "(DOP) in the ...(MAR) column indicates that the value of this service shall be determined by written documentation attached to or included in the bill....DOP shall include pertinent information about the procedure including:...Exact description of procedure or service provided:...Nature, extent, and need (diagnosis and rationale) for the service or procedure;...Time required to perform the service or procedure;...skill necessary for performance of service or procedure;...equipment used (if applicable);..." MFG GI (VI) states, "A MAR is listed for each code excluding documentation of procedure (DOP) codes and HCPCS codes.... HCPCS codes shall be reimbursed as provided in the DME Ground Rules. In the event of dispute, fair and reasonable shall be determined by the Commission in accordance with the Texas Workers' Compensation Act and Commission rules and procedures." MFG DME (IX) declares, "Invoices should be billed at the provider's usual and customary rate. Reimbursement shall be...the fair and reasonable rate."

The provider failed to attach written documentation to satisfy the criteria of the DOP procedure per MFG GI (III). Because the HCPCS have no MAR value and must meet DOP, the MFG further states that the DOP shall be reimbursed at a fair and reasonable rate of reimbursement. Since there are no current fee guidelines for HCPCS, the Medical Review Division has to determine based on the parties' submission of information, what represents fair and reasonable reimbursement. This places the burden on the provider to show what is fair and reasonable reimbursement. Rule 413.011 (b) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard

of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

Rule 133.305 (e) (1) (F) states, "if the dispute involves treatment(s) and/or service(s) for which the Commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement in accordance with § 133.1..."

Based on the evidence available for review, the provider did not meet the criteria of Rules 413.011 (b) and 133.305 (e) (1) (F). The provider did not prove that the carrier's reimbursement is not fair and reasonable. Therefore, the provider is not entitled to additional reimbursement.

The above Findings and Decision are hereby issued this 7th day of August 2002.

Donna M. Myers, B.S.
Medical Dispute Resolution Officer
Medical Review Division

DMM/dmm

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.